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PCT LEGAL ADMINISTRATION

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In re Application of	:	
PYZIK, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/551,727	:	
PCT No.: PCT/US2004/010837	:	UNDER 37 CFR 1.78(a)(6)
Int. Filing Date: 08 April 2004	:	
Priority Date: 09 April 2003	:	
Atty Docket No.: 62620A	:	
For: COMPOSITION FOR MAKING METAL	:	
MATRIX COMPOSITES	:	

This is a decision on the "Petition Under 37 C.F.R. § 1.78(a)" filed 14 September 2010 in the United States Patent and Trademark Office (USPTO). No additional petition fee is required.

The renewed petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(I) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in

that (1) a reference to the above-noted, prior-filed provisional application has been included in a concurrently filed amendment; (2) the surcharge fee required by 37 CFR 1.17(t) has previously been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider the benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294

The application is being forwarded to the Office of Patent Application Processing to continue national stage processing of the instant application.

/Boris Milef/

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration